

Strategic Planning Referral Response

Application Number:	Mod2016/0094
To:	Alex Keller
Land to be developed (Address):	Lot 2 DP 604580 , 22 Homestead Avenue COLLAROY NSW 2097

Officer comments

MOD2016/0094 seeks consent to delete condition 7 of the consent for DA2015/0931, a Residential Care Facility. The condition requires the payment of a Section 94A (S94A) contribution as per Warringah Development Contributions Plan 2015 (the Plan). The proposal is considered to be unacceptable.

Three points are made to support the request. These points are summarised below, with Council's response.

1. The Trustees for the Salvation Army (NSW) Property Trust (TSA) is not-for-profit and should be excluded from S94A fees, as per the Plan.

Response: The Plan excludes non-profit organisations **only** if the works are for a public purpose and on behalf of, or in partnership with Council. No evidence has been provided to show that the Residential Care Facility is being undertaken on behalf of, or in partnership with Council.

2. Residents of the Residential Care Facility are likely to have low incomes, meaning the Residential Care Facility is 'affordable housing' under the Environmental Planning and Assessment Act 1979, and should be exempted from S94A fees, as per the Plan.

Response: Clause 6 of the Plan exempts development 'for the sole purpose of affordable housing', as per the Ministerial Direction under S94E, dated 10 November 2006. The Ministerial Direction states that the terms within the Direction have the same meaning as they do in under the Environmental Planning and Assessment Act 1979 (the Act). The act states:

"affordable housing" means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations as are provided for in an environmental planning instrument.

The applicant's Statement of Environmental Effects states that the development meets this definition, as it claims that 'the households/residents that will occupy the approved RCF on the site are likely to fall within the above definition of a *very low income household, low income household or moderate income household...*'

It does not appear that evidence has been provided to demonstrate that the Residential Care Facility has been assessed as 'affordable housing', aside from the above claim of the 'likely' incomes of residents. This statement has not been accompanied by materials that would support the claim. As

such, unless Development Assessment has determined that the Residential Care Facility meets the definition of 'affordable housing', this exclusion does not apply.

It is noted that the applicant has specifically referred to the 'affordable housing' exemption test and the definition of 'affordable housing' with the Act. There are several exemption tests within the Plan. Applicants must address which exemption test they are seeking to apply and how they pass that test.

3. Residents of the Residential Care Facility will rarely use community infrastructure, and as such, the Residential Care Facility should not pay for additional community infrastructure via an S94A fee.

Response: The Plan does not list 'low use of community infrastructure' as a reason for exemption from S94A fees.

Strategic Planning Conditions:

Nil.